

March 15, 2002

VIA HAND DELIVERY

Mary Cottrell, Secretary
Department of Telecommunications and Energy
One South Station
Boston, MA 02110

***RE: Aggregation Default Service Pilot Project
 DTE _____***

Dear Ms. Cottrell:

Pursuant to the Department's directive in DTE 01-63 (October 23, 2001), the Cape Light Compact ("Compact") is pleased to enclose for review and approval ten (10) copies of the fully executed Pilot Electric Supply Agreement (the "Agreement") between the Compact and Mirant Americas Retail Energy Marketing, L.P. ("Mirant"). We have also enclosed ten copies of a summary of the Agreement ("Summary") providing a description of the key provisions and a more detailed, section-by-section, review. Note that the Compact *is not* seeking confidential treatment of this Agreement or the Summary.

The Compact respectfully requests that the Department review and approve this Agreement on or before March 25, 2002 (e.g. within five business days as requested in the Compact's Pilot filing last Fall) and submits that there is no reason for a longer investigation. In fact, the Compact was able to obtain these favorable pricing terms premised on a very expedited review and implementation period, and any delay will likely jeopardize the ability to accomplish the thirty (30) day opt-out process and enrollment for start-up of service on May 1st. A delay beyond this period would jeopardize the pricing arrangement and the substantial benefits the Agreement will make available to Cape and Vineyard Default consumers who choose not to opt-out. The Agreement provides tens of thousands of customers an option to be served by competitive suppliers and reap substantial savings. It represents an innovative, carefully calibrated and negotiated approach to bring real benefits to consumers heretofore without meaningful alternatives.

The Agreement runs for a term commencing with the start-up of service on or after May 1, 2002 and continuing through December 31, 2002 (unless earlier terminated). In the Compact's Pilot Plan it was stated that "the Compact will execute an agreement with the supplier for the aforementioned 15 month period, *or for a longer period if such supply is available on terms that provide consumer savings.*" (Emphasis added)(Pilot, p. 3). The Compact is pleased it was able to negotiate price terms for this period of time. The contract price for all participants is 4.898 cents/kWh for May 1, 2002 through December 31, 2002 and 4.798 cents/kWh for calendar year 2003. The contract will automatically terminate at the end of this year and consumers would be transferred back to Default Service at no charge if the NSTAR Default Service tariff for 2003 is set at a price lower than the Agreement price. Consumers thus receive the lowest price available. The Agreement may also be extended for one year (beyond 2003) by agreement of the Compact and Mirant, *subject to further DTE review*. Eight month savings for 2002 (based on 2001 kWh sales for Default customers) are projected at roughly \$2,000,000 in the twenty-one member towns. (See Summary; Projected Savings for Default Service Customers by Town, Exhibit A-1).

The Agreement and Summary fully identify, per the Department's directive, all charges to consumers. There are *no* exit fees or similar penalties for consumers participating in the Pilot. The only charge to consumers, other than those for electricity as described in the preceding paragraph, is a one mill/kWh charge for the first eight months to establish a reserve fund to cover any liabilities that are not otherwise paid by Mirant's insurance or other financial sureties. (See Article 15 of the Agreement). This charge accounts for the difference in the 2002 price as compared to the 2003 price and is included within the 4.898 cents/kWh rate for the 2002 contract period.

The Compact's Governing Board unanimously approved the Agreement on March 13, 2002. The Compact's entry into the Agreement is not premised on individual town actions, although the Compact is in the process now of asking each member town to endorse the Agreement. This is because the Compact's Governing Board (made up largely of Selectmen, Town Councillors and other elected officials), which is fully authorized to act on behalf of its members through the Intergovernmental (Compact) Agreement, determined that it was not feasible to engage in such a process here where the market window was so brief and the timeline so tight. Additionally, the member towns have not been asked to provide any indemnification nor make any other promises as a condition of service. In contrast, Mirant has agreed to a very broad indemnification of the Compact and the members. (See Article 13 of the Agreement).

Customers eligible to participate ("Eligible Consumers") include all of those customers on Default Service as of March 13, 2002, and any new customers who move into the service territory during the term of the Agreement and would otherwise be placed on Default Service. This definition is important because it allows a fixed price to be set for a load with a profile and

Mary Cottrell, Secretary of the Department
March 15, 2002
Page 3

size in which growth and risk can be evaluated. Competitive supply customers or Standard Offer customers are not eligible for the supply at the negotiated price because they cannot be accommodated in the same risk evaluation; the number and size of such customers and when they might appear as part of the load simply cannot be predicted with any reasonable precision. However, to accommodate these ineligible customers who may want competitive supply, the Compact and Mirant are developing a separate opt-in program that will provide pricing at market rates, at the time such customers may wish to receive competitive supply. This opt-in program for ineligible customers will be open for customers seeking "system supply" at market rates (that includes the Renewable Portfolio Standard), and the "green power" option for which they would volunteer to pay a premium for 50% or 100% renewable energy.

Other than as set forth above, the Agreement is consistent with the Compact's prior filings in DTE 01-63, the Department's orders in that docket and in 01-63A and G.L. c. 164, §134(a) and other applicable law. And, the Compact submits that the differences are justified by market conditions and promote the interests of consumers. Therefore, the Compact respectfully requests that the Department act expeditiously to approve the Agreement, as presented.

Finally, I note that while copies of this filing are being provided to the attached service list contemporaneously with this filing, advance copies of the Agreement and Summary were sent to the Attorney General, the Division of Energy Resources and NSTAR on Wednesday afternoon, March 13, 2002.

Thank you for your attention to this matter.

Sincerely,

Jeffrey M. Bernstein
Elizabeth M. Heller

JMB:EMH/drb
Enclosures

cc: Kevin Penders, Esq., Hearing Officer (w/enc.) (Via Hand and Electronically)
Barry Perlmutter, DTE (w/enc.) (Via Hand)
Service List (w/enc.)
Margaret T. Downey, Cape Light Compact (w/enc.) (Via Federal Express)
Scott Ridley, Ridley & Associates (w/enc.) (Via First Class Mail)
Emily E. Manning, Mirant (w/enc.) (Via Federal Express)

Mary Cottrell, Secretary of the Department
March 15, 2002
Page 4

C:\Documents and Settings\michael.w.orcutt\Local Settings\Temporary Internet Files\OLK11D\pesacontractfiling.wpd